

# **EXHIBIT 3**

**January 23, 2016 Correspondence To  
Plaintiff's Counsel**



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January 23, 2016

**VIA E-MAIL AND CERTIFIED MAIL**

Jesse L. Young  
Shareholder  
Sommers Schwartz Law Offices  
1 Towne Square  
Suite 1700  
Southfield, MI 48076

***Re: Solicitation Of Employees Of Kelly Services, Inc.***

Dear Mr. Young:

This law firm represents Kelly Services, Inc. It has come to our client's attention that you have been seeking to initiate contact with current and/or former employees of Kelly Services regarding "a recently filed class action lawsuit" alleging that Kelly Services is "withholding overtime pay from home-based customer care agents in violation of state and federal wage and hour laws." Enclosed is a copy of one such solicitation that appeared on your blog, entitled "Are Kelly Services Customer Care Agents Properly Paid for All the Hours They Work?" On January 20, 2016, your solicitation was subsequently posted to the Sommers Schwartz Facebook page, and has been commented on by Facebook users claiming to be current and/or former Kelly Services employees. We write to explain our position with respect to your improper solicitations and to give you an opportunity to respond.

Kelly Services deems the statements in your solicitation to be of serious concern. Your blog posting is misleading and a transparent attempt to round up participants in litigation for your own pecuniary benefit. Kelly Services pays its employees in accordance with all federal, state, and local laws, and your suggestion to the contrary is baseless and deceptive. As such, your solicitation contains untrue representations, asserts false or misleading statements, and manifests a lack of candor. Applicable rules of professional responsibility require attorneys to refrain from such conduct.

Moreover, insofar as you have filed a complaint on behalf of a putative Section 216(b) FLSA collective action, your solicitation amounts to a *de facto* notice to the putative FLSA collective. *See, e.g., Boudier v. Prudential Financial, Inc.*, No. 06-CV-4359, 2007 WL 3396303, at \*2 (D.N.J. Nov. 8, 2007). No FLSA collective action has been sought or conditionally certified,



Jesse L. Young  
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and no notice has been approved by the Court. As such, your solicitation “usurps [the Court’s] power and statutory duty to oversee the FLSA-mandated process for court-facilitated notice to potential collective action members, including the fair content of such notice.” *Id.* Worse, your solicitation is improper because it contains numerous unproven and untrue allegations, but presents them as undisputed fact. *See, e.g., Maddox v. Knowledge Learning Corp.*, 499 F. Supp. 2d 1338, 1344-45 (N.D. Ga. 2007).

Further, your social media communications also interfere with the business relationships and operations of Kelly Services. In particular, any contact you have with employees during business hours distracts such employees from their job duties and thereby interferes with the business operations of Kelly Services.

Accordingly, Kelly Services demands that your law firm cease and desist immediately from solicitation of the company’s current and/or former employees. We further request that you acknowledge receipt of this correspondence and your agreement to the request herein within three (3) business days. Finally, we request that you provide us with a copy of any and all letters, e-mails, etc. sent to current and former employees, information as to the method of delivery of the communications to current and former employees, and an explanation of how you came to possess the addresses for current and former employees.

We look forward to your prompt attention and cooperation in this matter.

Very truly yours,

SEYFARTH SHAW LLP

*/s/ Gerald L. Maatman*

Gerald L. Maatman

GLM:sdl

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## *Are Kelly Services Customer Care Agents Properly Paid for All the Hours They Work?*

January 20, 2016 by [Jesse L. Young](#)



According to a recently filed class action lawsuit, international staffing giant Kelly Services is allegedly [withholding overtime pay](#) from home-based [customer care agents](#) in violation of state and federal wage and hour laws.

The home-based customer care agents are classified as non-exempt employees and are required to perform a number of tasks before, during, and after their shifts but are not paid for all of these activities. This unpaid time includes:

- Starting and logging into various necessary computer programs and applications at the begging of the workday;
- Logging out of and shutting down those programs and applications at day's end.

These actions total up to 20 minutes or longer, yet agents are only compensated for 10 minutes of this time pursuant to company policy.

Similarly, at periodic times agents become disconnected from Kelly's computer systems or experience problems with the programs and applications needed to perform their jobs. When than occurs, the employees are required to place a

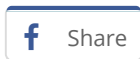
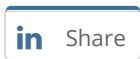
telephone call to Kelly's technical support line when experiencing a technical issue, yet are not paid for all of the time spent resolving the problem. For example:

- Waiting on hold to speak to a member of Kelly's technical support team which often takes 15 minutes or longer;
- Waiting for a return call from the technical support team which may last 3 to 4 hours or longer;
- Restarting and logging back into programs and applications which often requires an additional 10 to 15 minutes.

Despite the fact that resolving a technical issue may consume as much as 4.5 hours or more of a call center agent's workday, company policy restricts compensation for such events to one hour.

Due to Kelly's failure to pay for such "off the clock" work, which frequently constitutes overtime warranting time-and-a-half, [Sommers Schwartz filed a class action lawsuit](#) against the company on behalf of **all current and former hourly home-based customer care agents who worked for Kelly Services at any time during the last three years**. The suit seeks recovery for all unpaid wages and overtime hours as well as liquidated damages, attorneys' fees, and costs.

If you are or were employed by Kelly Services as a customer care agent and believe you, too, were wrongfully denied wages and overtime, [please contact](#) the attorneys in [Sommers Schwartz's Employment Litigation Group](#) today to learn how we can pursue your rights.



Categories: [Class Action](#), [Employment](#)

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#### About Jesse L. Young

Jesse Young is a member of Sommers Schwartz's Complex Litigation Group, wherein he manages the day-to-day operations of the firm's Wage & Hour practice.

[View all posts by Jesse L. Young](#) →

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